IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

OP.No. 3123 of 2000(V)

PETITIONER:

DIRECTOR OF PANCHAYATS,
DIRECTORATE OF PANCHAYATS,
THIRUVANANTHAPURAM.

RESPONDENTS:
----

1. **LABOUR COURT, KOLLAM.**

2. **P.VIJAYAMMA,**
PUTHENPURAYIL HOUSE,
KARAIMA KIZHAKKUMMURI, CHENNITHALA,
THRIPERUMTHURA PANCHAYAT P.O.
VALIYAKULANGARA, MAVELIKARA.

R2 BY ADV. SRI.K.S.MOHAMED HASHIM

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.No.5030/2000 IN O.P.NO.3123/2000

DISMISSED

1/11/2007 **Sd/-S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 12.2.1998 IN C.P.No.125/1992.

EXT.P2: COPY OF THE DEMAND NOTICE ISSUED UNDER SECTION 7 OF R.R.ACT.

TRUE COPY

P.A.TO JUDGE

S.SIRI JAGAN,J

==========

O.P.No.3123 of 2000

==========-==========

Dated this the 1st day of November, 2007

JUDGMENT

The Director of Panchayats, Thiruvananthapuram is the petitioner in this writ petition. He is challenging Ext.P1 order of the Labour Court, Kollam in C.P.No.125/92, passed under Section 33C (2) of the Industrial Disputes Act whereby the labour court directed payment of Rs.18,699/- to the second respondent herein as arrears of wages and D.A. The second respondent was a Part-Time Sweeper in the Taluk Panchayat Office, Mavelikkara. She filed a claim petition complaining of non payment of wages and arrears of D.A which has been allowed as per impugned order. The contention raised is that the Taluk Panchayat Office is not an industry as defined under the Industrial Disputes Act and the Director of Panchayat is not her employer. The Taluk Panchayat Office is a department of the Government which is not engaged in any industrial activities but is only exercising sovereign functions of the State. Therefore, the Taluk Panchayat Office is not an industry and the second respondent being a Government Servant is not entitled to invoke

the Industrial Disputes Act is the contention raised.

2. The learned counsel for the second respondent would submit that even if Taluk Panchayat Office as such cannot be held to be an industry, taking into account the nature of duties of the second respondent workman, she must be regarded as being employed in an industry as a workman.

3. I am unable to countenance the contention of the learned counsel for the second respondent. Admittedly, the Taluk Panchayat Office is a department of the Government of Kerala. Therefore the second respondent is a Government Servant. The Taluk Panchayat Office cannot be regarded as an industry since no industrial activity is being carried on in the Panchayat Office. The Taluk Panchayat Office is a department of the Government to oversee the functions of the Panchayats which is a sovereign function and therefore the same cannot be regarded as an industry at all. That being so, no claim petition under Section 33C (2) would lie against the Taluk Panchayat Office and therefore, the claim petition itself is not maintainable. Hence, Ext.P1 order has been passed without jurisdiction and

accordingly the same is quashed. The second respondent would be free to agitate her rights before the appropriate forum, if so advised.

The writ petition is allowed as above.

S.SIRI JAGAN, JUDGE

dvs